IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.4382 of 2005

Shri Omprakash Dattatraya — Petitioner
Vs.
Punjab National Bank & ors. — Respondents

Dr.V.K.Chowdhary for petitioner.
None for the respondents.

CORAM: B.H.MARLAPALLE & NARESH H.PATIL,JJ.

September 12, 2006.

P.C.

1. Heard Dr.Chowdhary, the learned counsel for the petitioner who is aggrieved by the order dated 5/4/2005 passed by the learned Presiding Officer of the Debts Recovery Tribunal at Pune thereby rejecting the Application No.1 of 2005.

2. The petitioner's grievance relates to the property viz. Plot No.22, Survey No.37/11, situated at Poorti Co-op. Housing Society, Dhankawadi, Tal. Haveli, Pune. He claims that he purchased the said plot from Mrs.Kalpana Pravin Ghole who executed a surrender deed in favour of Poorti Co-op. Housing Society Ltd. and registered at Sr.No.4657 on 3/9/2002. It was claimed that the said property stood in the name of the petitioner as per the lease deed at Sr.No.4657 of 2002 and it became his

exclusive ownership property. The respondent - Bank issued notice dated 13/12/2004 informing the public that it was taking over the suit plot in terms of the action under the Securitization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner challenged the Bank's action and mainly contended that he was the owner and had taken all the steps to verify the title of Mrs.Kalpana Ghole. As per him the action of the Bank was illegal and unless he was heard the Bank could not have issued the notice dated 13/12/2004.

2. The Tribunal in the impugned order has considered the respective averments and noted that the suit plot originally belonged to Shri Pravin Ghole who had mortgaged the property in favour of the Bank and the Bank was not aware of the subsequent developments.

3. It is not necessary for us to deal with the further factual position or the legal issues except to observe that the petitioner's title over the suit property can be more appropriately decided by filing a civil suit and in such proceedings all the issues can be more efficaciously decided. We, therefore, do

not find any merit for entertaining this petition and it would be appropriate to relegate the petitioner to the alternative remedy of instituting a civil suit.

4. The petition is, therefore, rejected and the petitioner is at liberty to file a civil suit which will be decided without being influenced by the impugned order passed by the Tribunal. All contentions of the respective parties are left open.

(NARESH H. PATIL,J.) (B.H.MARLAPALLE